

HOUSE No. 4112

The Commonwealth of Massachusetts

HOUSE, May 23, 2012.

The Joint committee on Telecommunications, Utilities and Energy, reported under the provisions of Joint Rule 3A, a “Committee Bill relative to the development of wind siting standards” (House, No. 4112).

For the committee,

JOHN D. KEENAN.

Senate Membership of the committee on Telecommunications, Utilities and Energy

Senators (required signatures – 4):

BENJAMIN B. DOWNING/S/

Benjamin B. Downing

Marc R. Pacheco

JENNIFER L. FLANAGAN/S/

Jennifer L. Flanagan

EILEEN DONOGHUE/S/

Eileen Donoghue

JAMES B. ELDRIDGE/S/

James B. Eldridge

MICHAEL R. KNAPIK/S/

Michael R. Knapik

House Membership of the committee on Telecommunications, Utilities and Energy

Representatives (required signatures – 8):

JOHN D. KEENAN/S/

John D. Keenan

RANDY HUNT/S/

Randy Hunt

KATE HOGAN/S/

Kate Hogan

JOHN H. ROGERS/S/

John H. Rogers

THOMAS A. GOLDEN/S/

Thomas A. Golden

Walter F. Timilty

STEPHEN L. DINATALE/S/

Stephen L. DiNatale

CARLO P. BASILE/S/

Carlo P. Basile

TACKEY CHAN/S/

Tackey Chan

JOHN J. MAHONEY/S/

John J. Mahoney

Paul Adams

HOUSE No. 4112

The Joint committee on Telecommunications, Utilities and Energy, reported under the provisions of Joint Rule 3A, a “Committee Bill relative to the development of wind siting standards” (House, No. 4112).

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

An Act relative to the development of wind siting standards.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 164, as appearing in the 2010 Official Edition, is hereby amended by
2 inserting after section 69S the following section:-

3 Section 69T. (a) The energy facilities siting board shall, with the approval of the secretary of
4 energy and environmental affairs, promulgate rules and regulations pursuant to chapter 30A
5 containing standards for the land-based siting, operation and decommissioning of wind energy
6 facilities. The siting of offshore wind facilities shall be governed by the integrated ocean
7 management plan established under section 4C of chapter 21A.

8 (b) The standards for wind energy facilities shall include, but not be limited to: (1)
9 lighting; (2) appropriate setbacks from residences to prevent significant sound, health and safety
10 impacts; (3) performance standards and appropriate setbacks to avoid impacts, and to the extent
11 impacts cannot be avoided, to minimize or mitigate impacts to scenic or recreational areas of

special federal, state or regional significance, regional cultural facilities, historic resources, properties listed or eligible for listing in the National Register of Historic Places or the state register, priority or estimated habitats for plant and animal species listed in chapter 131A, populations of bird and bat species that are considered by the department of fish and game as being vulnerable to impacts from the operation of wind turbines, large unfragmented habitat blocks, wetland resources or other ecologically sensitive areas subject to protection under federal or state law or as identified by the department of environmental protection, department of conservation and recreation or the department of fish and game; and (4) such other factors as the board determines to be relevant to foster the development of wind energy in a manner that avoids, minimizes or mitigates material adverse environmental impact. Mitigation may include, but not be limited to, the preservation, enhancement, restoration or establishment of resources of greater or equal value to those being impacted, as compensation for unavoidable impacts.

The standards may vary from region to region to take into account material differences in the natural resources, available wind resources or other characteristics of regions; provided, however, that all applicable standards shall be at least as protective as existing state environmental statutes and regulations. The standards shall be: (i) based upon best available science; (ii) drafted in consultation with the relevant agencies and the advisory group established in subsection (c); and (iii) reviewed and updated as necessary; provided, however, that the standards shall be updated every 5 years.

(c) (1) The energy facilities siting board shall empanel an advisory group to develop recommended standards under the direction of the chair of the board. The advisory group may utilize the resources and staff of the energy facilities siting board and relevant agencies of state government. The advisory group shall include the commissioner of conservation and recreation,

the chair of the Massachusetts historical commission, the commissioner of public safety and the commissioner of public health, or their designees. The advisory group shall also include one representative from each of following organizations: Berkshire regional planning commission; Berkshire natural resources council; metropolitan area planning council; southeastern regional planning and economic development district; Franklin regional council of governments; Cape Cod commission; Martha's Vineyard commission; Nantucket planning and economic development commission, and; Pioneer Valley Planning Commission. The advisory group shall also include the following individuals to be appointed by the governor: 1 municipal official with experience in energy siting drawn from a list of not fewer than 3 candidates prepared by the Massachusetts Municipal Association; provided, however, that the same municipal official may not serve on the energy facilities siting board and the advisory group established in this subsection; a scientist who is an expert in ecology and conservation; a scientist or engineer who is an expert in wind energy; and a public health official with expertise in audiology. The advisory group shall also include the following individuals to be appointed by the senate president: 1 representative from a non-profit environmental organization with experience in wind energy facility siting policy; and 1 municipal official with experience in energy siting drawn from a list of not fewer than 3 candidates prepared by the Massachusetts Municipal Association. The advisory group shall also include the following individuals to be appointed by the senate minority leader: 1 representative from a non-profit environmental organization. The advisory group shall also include the following individuals to be appointed by the speaker of the house of representatives: 1 representative from a non-profit environmental organization with experience in wind energy facility siting policy; and 1 municipal official with experience in energy siting drawn from a list of not fewer than 3 candidates prepared by the Massachusetts Municipal

Association. The advisory group shall also include the following individuals to be appointed by the house minority leader: 1 representative from a non-profit environmental.

(2) Prior to submitting the recommended standards to the energy facilities siting board, the advisory group shall hold not less than 3 public hearings to solicit public comments, including one in the Berkshires and one to serve the Cape and the Islands. One of the hearings must be held past normal business hours.

(3) The advisory group must approve their recommended standards with a 2/3 majority vote. If approval is not granted within 9 months of enactment, the energy facilities siting board shall promulgate the rules and regulations required under this section without the recommendations of the advisory panel. Prior to adopting the rules and regulations, the energy facilities siting board shall hold a public hearing and follow the additional procedures established in section 2 of chapter 30A.

(d) The advisory group shall convene its first official meeting within 3 months of the effective date of this act. The advisory panel shall convene all hearings and vote on recommendations within 9 months of the effective date of this act. The energy facilities siting board shall publish draft regulations within 12 months of the effective date of this act. The energy facilities siting board shall hold a public hearing and approve final regulations within 15 months of the effective date of this act.